

CANADA

SUPERIOR COURT

(Civil Division)

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PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No: 500-17-074743-124

**UNITED AIR LINES, INC.**, a legal person, duly constituted according to law, having its principal place of business at 77 West Wacker Dr., Chicago, Illinois 60601, U.S.A.

and

**CONTINENTAL AIRLINES, INC.**, a legal person, duly constituted according to law, having its principal place of business at 77 West Wacker Dr., Chicago, Illinois 60601, U.S.A.

and

**ELAINE CLARK**, claims analyst, an individual having an office at 1600 Smith St., Houston, Texas 77002, U.S.A.

and

**JESSICA ROSSMAN**, attorney, an individual having an office at 1600 Smith St., Houston, Texas 77002, U.S.A.

and

**JEFF WITTIG**, attorney, an individual having an office at 1600 Smith St., Houston, Texas 77002, U.S.A.

Plaintiffs

vs.

**JEREMY COOPERSTOCK**, a professor having an office at McGill University, McConnell Engineering Building, Rm. 424, 3480 University Street, Montreal, Quebec, H3A 0E9, and residing at 392 Grosvenor Street, Westmount, Quebec, H3Z 2M2.

Defendant

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**AMENDED INTRODUCTORY MOTION  
FOR THE ISSUANCE  
OF A PERMANENT INJUNCTION  
(Article 751 and ff., C.C.P.)**

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THE PLAINTIFFS, UNITED AIR LINES, INC., CONTINENTAL AIRLINES, INC., ELAINE CLARK, JESSICA ROSSMAN AND JEFF WITTIG, RESPECTFULLY SUBMIT AS FOLLOWS:

**I. The Parties**


1. Plaintiffs United Air Lines, Inc. and Continental Airlines, Inc. (collectively, the "**Airline Plaintiffs**") are commercial airlines that operate passenger flights under a single operating certificate, marketing such flights as "United";
2. The Airline Plaintiffs market their services under a common website, at [www.united.com](http://www.united.com) (the "**United Website**"). The United Website was first published in Canada when it was launched in its current form on or about March 3, 2012. A printout of the homepage of the United Website as it currently appears is produced herewith as **Exhibit P-1**;
3. Elaine Clark, Jessica Rossman and Jeff Wittig (collectively, the "**Individual Plaintiffs**") are employees of the Airline Plaintiffs. Their respective titles with the Airline Plaintiffs are: Claims Analyst, Corporate Insurance; Senior Counsel, Americas; and Senior Counsel, Asia and Pacific;
4. Defendant owns and operates a website corresponding with the internet domain name [www.untied.com](http://www.untied.com) (this website hereinafter called "**UNTIED.com**"). A printout of the homepage of UNTIED.com as it currently appears is produced herewith as **Exhibit P-2**;
5. Defendant registered this domain name on April 24, 1997. Defendant began operating said website the following day, the whole as appears from a printout of a "who is" search for UNTIED.com on the website [www.networksolutions.com](http://www.networksolutions.com), produced herewith as **Exhibit P-3**;
6. Among the purported objectives of UNTIED.com, as stated on the site itself, is to provide "*a forum for passengers and employees to voice their concerns and complaints, in the hopes that United will pay attention and act appropriately to respond to them*", the whole as appears from a printout of the portion of UNTIED.com entitled "*What is the purpose of this site?*", produced herewith as **Exhibit P-4**. Defendant, however, is using his UNTIED.com site as more than a forum to voice complaints. Indeed, as discussed below, Defendant actively encourages users to contact the Individual Plaintiffs, who have no connection to the issues discussed on his site;
7. Plaintiffs are not seeking to prevent the Defendant from operating a website where individuals can express their views about the Airline Plaintiffs. Rather, Plaintiffs are filing the present Introductory Motion in order to protect the Individual Plaintiffs' rights to

privacy, which are being infringed by the Defendant's posting of these individuals' contact information on UNTIED.com, and to protect the safety and security of these individuals, who have received several harassing and disturbing messages as a result of being involuntarily listed on UNTIED.com as discussed further below;

8. As set out in paragraphs 31 to 37 below, the Airline Plaintiffs have approached Defendant on multiple occasions to request that Defendant modify his website so as to remove the employees' contact information. The Defendant has, however, refused to do so. Accordingly, Plaintiffs are left with no reasonable option but seek relief from this Court;

## **II. Defendant's Unlawful Acts**

### **(a) Defendant's Website Causes Consumer Confusion**

9. As stated at paragraph 2 above, the present version of the United Website was launched on March 3, 2012. This version of the United Website is the result of a significant redesign of the previous version of the website [www.united.com](http://www.united.com) and is based upon the version of the website that existed at [continental.com](http://continental.com);
10. At some time between March 3, 2012 and April 9, 2012, the Defendant caused his own UNTIED.com website to be redesigned, manifestly to cause confusion with the Airline Plaintiffs' website;
11. The newly redesigned UNTIED.com site very closely resembles the recently redesigned United Website. Amongst other things, the colour scheme, font, general website layout, and prominent placement of the logo **UNTIED** , which is confusingly similar with the United logotype and globe design used by the Airline Plaintiffs to market their services on the United Website, are all nearly exactly the same on both the United Website and the current version of UNTIED.com, the whole as shown by the printout of the homepage of UNTIED.com as it currently appears;
12. As demonstrated by a comparison of Exhibits P-1 and P-2, UNTIED.com has an overall appearance which very closely resembles and is difficult to distinguish from that of the United Website;
13. UNTIED.com allows visitors to the site to submit complaints. According to statistics posted on Defendant's UNTIED.com website, the number of complaints submitted by users dramatically increased after March 2012, from approximately 200 complaints submitted per month in March 2012, to approximately 800 in the most recent month shown. The timing of this increase corresponds with the redesign of UNTIED.com as set out in paragraph 9 above, and suggests that users are confused by the new appearance of UNTIED.com and believe that the website is associated with the Airline Plaintiffs. Printouts out of the UNTIED.com webpages showing these statistics are produced herewith, *en liasse*, as **Exhibit P-5**;
14. In one exemplary instance of consumer confusion, among many other such instances, a customer of the Airline Plaintiffs, after visiting UNTIED.com, was so clearly confused by

the similarity in appearance between UNTIED.com and the United Website that he has referred to his correspondence with the Defendant, through UNTIED.com, in a lawsuit he had filed in the District Court of Maryland against Plaintiff United, the whole as shown by copy of the Writ of Summons served upon Plaintiff United, produced herewith as **Exhibit P-6**;

15. As demonstrated by the foregoing, the nature of Defendant's UNTIED.com website causes consumer confusion and misleads the public into believing that Defendant's website is affiliated with Plaintiff United;
16. In order to address the many past and ongoing instances of consumer confusion and the future likelihood of further consumer confusion, the Airline Plaintiffs have initiated proceedings against Defendant by filing a Statement of Claim with the Federal Court of Canada;
17. By their proceedings before the Federal Court, the Airline Plaintiffs are seeking relief solely in respect of the infringement of the Airline Plaintiffs' intellectual property rights and resulting consumer confusion, caused by Defendant's actions in respect of UNTIED.com, the whole as shown by the Statement of Claim produced herewith as **Exhibit P-7**;
18. The relief sought before the Federal Court of Canada relates solely to the Airline Plaintiffs' intellectual property rights, whereas the relief sought before this Honourable Court relates solely to misuse of Individual Plaintiffs' contact information. There is therefore no possibility of any conflict between the judgment to be rendered by the Federal Court and the judgment to be rendered by this Court;

**(b) Defendant's Unauthorized Online Posting of Individual Plaintiffs' Contact Information**

19. Defendant's UNTIED.com website contains a heading entitled "Contact". By clicking on the "Contact" heading, users may follow a link entitled "Contact UAL". Users are then directed to a web page containing a listing of the Individual Plaintiffs, along with these Individual Plaintiffs' direct personal contact information. Users are instructed to contact these Individual Plaintiffs directly, the whole as shown by the printout of this web page as it currently appears, produced herewith as **Exhibit P-8**;
20. The Individual Plaintiffs' contact information is not made available to passengers or to the traveling public in general by either the Individual Plaintiffs themselves, or by the Airline Plaintiffs. For instance, Airline Plaintiffs do not maintain a publicly accessible directory containing the Individual Plaintiffs' contact information. Likewise, the departments of the Airline Plaintiffs in which the Individual Plaintiffs work do not have public websites that contain the Individual Plaintiffs' contact information. That is because the Individual Plaintiffs do not act as direct, front-line contacts or ombudsmen for receiving and handling consumer complaints;
21. The Airline Plaintiffs provide passengers and the traveling public in general numerous means through which to contact the Airline Plaintiffs to express concerns or complaints through clicking on the "Contact Us" button on the homepage of the United Website, the

whole as shown by the printouts of the relevant pages of the United Website produced herewith, *en liasse*, as **Exhibit P-9**;

22. However, as a result of the Individual Plaintiffs' contact information being publicly posted on UNTIED.com, large volumes of correspondence, both in the form of emails and telephone calls, which should have been properly directed to the appropriate department for proper handling by the Airline Plaintiffs, have instead been sent to the Individual Plaintiffs. To date, the total number of email and voicemail messages that have been sent to the Individual Plaintiffs as a result of their contact information being posted on UNTIED.com exceeds 200. Examples of such correspondence are produced herewith, *en liasse*, as **Exhibit P-10**;
23. The large volumes of correspondence, which, as demonstrated by Exhibit P-9, are misdirected to the Individual Plaintiffs, prevent the Individual Plaintiffs from conducting their ordinary business duties with the Airline Plaintiffs and result in delays in directing this correspondence to the proper recipients within the Airline Plaintiffs' organization for proper processing and response;
24. In certain cases, voicemail correspondence directed to the Individual Plaintiffs has made reference to UNTIED.com and has been harassing and threatening in nature, as demonstrated by the recordings of voicemails sent to each of the Individual Plaintiffs produced herewith, *en liasse*, as **Exhibit P-11**, transcripts of which voicemails are further produced herewith, *en liasse*, as **Exhibit P-12**;
25. For example, in one instance, an individual left a voicemail for Individual Plaintiff Jessica Rossman, making explicit reference to UNTIED.com, and suggested that Jessica Rossman would "have made a great Nazi", as demonstrated by the following excerpt from that voicemail:

*How come you're so familiar with untied dot com (UNTIED.com) but you are unwilling to talk to a... a member the public about a matter of great interest to United Airlines regarding litigation?*

*What the hell is wrong with Jessica Rossman, and how is that different from what is wrong with United Airlines? And how does that differ with what is wrong from the rogue, renegade, lying U.S. government, the former national – I'm sorry, the former constitutional republic and current national security state. What's the matter, Jessica, traitor got your tongue?*

*Jessica would you have made a great Nazi or just a good one?*

*Remember eighty years ago when the German government and media told everyone whom to hate and blame?*

*(. . .)*

*So maybe that that judge who that said that UAL should be on the hook for 9/11 isn't I don't know, part of the same treason party.*



*Untie yourself, Jessica Rossman. You the one who needs to be **untied**;*

the whole as demonstrated by the recording of the voicemail and transcript thereof produced herewith as **Exhibit P-13** and **Exhibit P-14**;

26. In another example, the same individual who had made reference to UNTIED.com in the voicemail message to Individual Plaintiff Jessica Rossman above, left a voicemail with Individual Plaintiff Elaine Clark, suggesting that Elaine Clark was "*just a wage slave...Hitler's dream come true*" as follows:

*Hey Elaine. This is Dave. Just trying to remind United Airlines at the corporate level that honesty is the best policy, and I encourage United Airlines to straighten up and fly right and stop going along with the hateful, physically impossible lies of the national security state regarding the events of 9/11 and the ongoing balm of purported Muslim hijackers for damages at Ground Zero that could not possibly have been caused by airliners, not even a hundred of them.*

*(...)*

*So are you just a wage slave, Elaine, just following orders? Hitler's dream come true. And I mean that sincerely...*

the whole as demonstrated by the recording of the voicemail and transcript thereof produced herewith as **Exhibit P-15** and **Exhibit P-16**;

27. In yet another example, this same individual left a voicemail with Individual Plaintiff Jeff Wittig, suggesting that Jeff Wittig had "*aided and abetted...treasonous lies and good amounts of crimes*":

*Hey, Jeff, if you're really an attorney and you really have a law degree, maybe that's actually something and you could use it to secure honest employment for yourself somewhere some day, somehow, instead of aiding and abetting these treasonous lies and good amounts of crimes against not merely humanity but against all of earth's living species..."*

the whole as demonstrated by the recording of the voicemail and transcript thereof produced herewith as **Exhibit P-17** and **Exhibit P-18**;

28. The threatening and harassing messages corresponding with Exhibits P-13 and P-14, as referred to at paragraph 25 above, caused Individual Plaintiff Jessica Rossman tremendous emotional and physical distress. Jessica Rossman was visibly shaken as a result of receiving these messages from an individual who had obtained her contact information from Defendant's website UNTIED.com. These threatening and harassing messages caused Jessica Rossman to fear for her physical safety and to consider leaving her position with Plaintiff United;

29. There is a likelihood that further harassing and threatening correspondence may be sent to the Individual Plaintiffs, causing further distraction and distress to these Individual Plaintiffs, the whole as a direct result of their contact information, which is otherwise not generally available to the public, being publicly posted on Defendant's UNTIED.com website;
30. There is a likelihood that Defendant will continue, in the future, to determine the contact information of other of Airline Plaintiffs' employees and post this information on UNTIED.com, thereby exposing such employees to potential harassing and threatening messages such as those sent to the Individual Plaintiffs as detailed in paragraphs 24 to 27 above;

### **III. Defendant's Refusal to Cease His Illegal Acts**

31. On July 16, 2012, Plaintiff United contacted Defendant to request, among other things, that the names and contact information of the Individual Plaintiffs be removed from UNTIED.com, the whole as demonstrated by the email chain produced herewith as **Exhibit P-18**;
32. On July 17, 2012, Defendant acknowledged receipt of Plaintiff United's request, and stated that he would "study" Plaintiff United's concerns. At that time, Defendant also offered his services to Plaintiff United "on a consultancy basis", as follows:

*...Since you've taken the initiative in contacting me, I'm reciprocating here by offering my services to your senior management on a consultancy basis...*

the whole as demonstrated by Exhibit P-18;

33. On September 10, 2012, Plaintiff United again contacted Defendant to reiterate its earlier request that Defendant remove the Individual Plaintiffs' names and contact information from UNTIED.com. Plaintiff United formally put the Defendant on notice of Plaintiffs' rights and stated as follows,

*...As a result of your postings, the individuals listed on your website have received an inordinately large number of e-mails and phone calls, many of an extremely disturbing nature. Not only are these e-mails and calls extremely disruptive, they have caused – and are causing – tremendous emotional strain and stress for these individuals. While we understand that you are a critic of United Airlines, we are sure that facilitating the harassment of individual employees simply trying to do their jobs is not your intent, and that you will have no issues with removing their names and contact information. There is simply no legitimate reason to subject them to the burdens and stress that listing their names on your website has imposed on them...*

the whole as demonstrated by the letter produced herewith as **Exhibit P-19**;

34. On September 25, 2012, Defendant responded to Plaintiff United's September 10, 2012 letter, but made no mention of any intention to remove the Individual Plaintiffs' names

and contact information from UNTIED.com, and reiterated his offer to provide services to Plaintiff United on a consultancy basis, as demonstrated by **Exhibit P-18**;

35. On October 2, 2012, Plaintiff United yet again contacted Defendant to reiterate its earlier request that the Defendant remove the Individual Plaintiffs' names and contact information from UNTIED.com, as follows:

*...[T]hese employees have received extremely disruptive and harassing messages as a result of your posting of their information on untied.com. These individuals have no connection to the issues discussed on your site but nevertheless are being subject to significant stress and burdens as a result of being listed as contacts on your site...*

the whole as demonstrated by the letter produced herewith as **Exhibit P-21**;

36. On October 12, 2012, Defendant responded to Plaintiff United's October 2, 2012 letter, but once again did not address Plaintiff United's request that he remove the Individual Plaintiffs' names and contact information from UNTIED.com, the whole as demonstrated by the email chain produced herewith as Exhibit P-19;
37. To date, Defendant has not removed the Individual Plaintiffs' names and contact information from UNTIED.com;
38. Defendant's posting of the Individual Plaintiffs' personal contact information, and refusal to remove same despite Plaintiffs' requests, is causing irreparable harm to Plaintiffs;
39. Defendant's actions result in the likelihood that further irreparable harm will be caused to the Plaintiffs and to other employees of the Airline Plaintiffs in the future;

#### **IV. Injunctive Relief**

40. Plaintiffs have a clear right to prevent Defendant, by way of injunction, from posting the Individual Plaintiffs' names and contact information on UNTIED.com, as such posting causes serious and irreparable harm to the Plaintiffs, in that such posting causes an ongoing reduction in Individual Plaintiffs' productivity and has led to harassment of and, threats to these Individual Plaintiffs, by users of Defendant's website UNTIED.com, the whole resulting in emotional distress of the Individual Plaintiffs;
41. The present action is well-founded in fact and in law;

**WHEREFORE, PLAINTIFFS PRAY THAT BY JUDGMENT TO BE RENDERED HEREIN THIS HONOURABLE COURT:**

**GRANT** the present Motion;

**ORDER** Defendant to remove the names and contact information of any and all employees of the Airline Plaintiffs, including but not limited to the names and contact information of the Individual Plaintiffs, from Defendant's website www.UNTIED.com;



**ORDER** Defendant to refrain from ever posting the names and contact information of any of Airline Plaintiffs' employees on any website;

**ORDER** provisional execution notwithstanding appeal;

**THE WHOLE** with costs, including any costs of expertise.

**MONTREAL**, December 10, 2012

*Gowling Lafleur Henderson*

**GOWLING LAFLEUR HENDERSON LLP**

Attorneys for Plaintiffs

**United Air Lines, Inc., Continental**

**Airlines, Inc., Ms. Elaine Clark, Ms.**

**Jessica Rossman and Mr. Jeff Wittig**

**TRUE COPY**

*Gowling Lafleur Henderson*

**Gowling Lafleur Henderson LLP**

**NOTICE TO DEFENDANT**  
**(Articles 119 and 813.5 C.C.P.)**

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TAKE NOTICE that Plaintiffs have filed this action in the office of the Superior Court of the judicial district of Montreal.

To file an answer to this action or application, you must first file an appearance, personally or by advocate, at the Courthouse of Montreal located at 1 Notre-Dame Street East, within ten (10) days of service of this motion.

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10-day period.

If you file an appearance, the action or application will be presented before the Superior Court on **December 21, 2012, at 9:00 a.m., in room 2.16 of the Courthouse**. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the Court may hear the case, unless you make a written agreement with Plaintiffs or Plaintiff's advocate on a timetable for the orderly progress of the proceeding. The timetable must be filed in the office of the Court.

In support of the Introductory Motion, Plaintiffs disclose the following exhibits:

- Exhibit P-1:** A printout of the [www.united.com](http://www.united.com) homepage;
- Exhibit P-2:** A printout of the [www.UNTIED.com](http://www.UNTIED.com) homepage;
- Exhibit P-3:** A printout of a Network Solutions who is search for [www.UNTIED.com](http://www.UNTIED.com);
- Exhibit P-4:** A printout of the FAQ section of [www.UNTIED.com](http://www.UNTIED.com);
- Exhibit P-5:** A printout of the Complaint Statistics pages of [www.UNTIED.com](http://www.UNTIED.com);
- Exhibit P-6:** A printout of a Writ of Summons served upon Plaintiff United Air Lines, dated September 14, 2012;
- Exhibit P-7:** Statement of Claim relating to intellectual property matters intended for filing in the Federal Court of Canada on November 19, 2012 and intended for service upon Defendant by Plaintiffs United Air Lines and Continental Airlines, on November 19, 2012;
- Exhibit P-8:** A printout of the Contact UAL section of [www.UNTIED.com](http://www.UNTIED.com);
- Exhibit P-9:** A printout of the homepage and "Contact Us" pages of the United Website, [www.united.com](http://www.united.com), *en liasse*;
- Exhibit P-10:** A printout of a bundle of email complaints received by Plaintiffs Elaine Clark, Jessica Rossman and Jeff Wittig and other employees of Plaintiffs

United Air Lines and Continental Airlines;

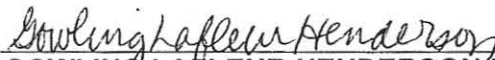
- Exhibit P-11:** A CD containing recordings of harassing and threatening voicemails sent to Plaintiffs Elaine Clark, Jessica Rossman and Jeff Wittig and to other employees of Plaintiffs United Air Lines and Continental Airlines;
- Exhibit P-12:** A printout of transcripts of harassing and threatening voicemails sent to Plaintiffs Elaine Clark, Jessica Rossman and Jeff Wittig and to other employees of Plaintiffs United Air Lines and Continental Airlines;
- Exhibit P-13:** A CD containing a single example of a recording of a harassing and threatening voicemail sent to Plaintiff Jessica Rossman;
- Exhibit P-14:** A printout of a transcript of a single example of a harassing and threatening voicemail sent to Plaintiff Jessica Rossman;
- Exhibit P-15:** A CD containing a single example of a recording of a harassing and threatening voicemail sent to Plaintiff Elaine Clark;
- Exhibit P-16:** A printout of a transcripts of a single example of a harassing and threatening voicemail sent to Plaintiff Elaine Clark;
- Exhibit P-17:** A CD containing a single example of a recording of a harassing and threatening voicemail sent to Plaintiff Jeff Wittig;
- Exhibit P-18:** A printout of a transcripts of a single example of a harassing and threatening voicemail sent to Plaintiff Jeff Wittig;
- Exhibit P-19:** A printout of a chain of email correspondence between Plaintiff United Air Lines and Defendant between July 16, 2012 and October 12, 2012;
- Exhibit P-20:** A copy of a letter sent from Plaintiff United Air Lines to Defendant September 10, 2012;
- Exhibit P-21:** A copy of a letter sent from Plaintiff United Air Lines to Defendant October 2, 2012;

These exhibits are attached hereto and served with the present action.

**TAKE FURTHER NOTICE** that if you fail to appear or to contest Plaintiffs' allegations within the time limit fixed, Plaintiffs may obtain judgment by default against you. Moreover, if you do not appear, Plaintiffs will not be required to inform you of any further proceedings.

**DO GOVERN YOURSELF ACCORDINGLY.**

**MONTREAL, December 10, 2012**

  
**GOWLING LAFLEUR HENDERSON LLP**  
Attorneys for Plaintiffs  
**United Air Lines, Inc., Continental  
Airlines, Inc., Ms. Elaine Clark,  
Ms. Jessica Rossman and Mr. Jeff Wittig**

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**TRUE COPY**

  
**Gowling Lafleur Henderson LLP**

À signer  
Étude Paquette et Associés  
Huissier de justice

N° 500-17-074743-124

SUPERIOR COURT  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

21/12

UNITED AIR LINES, INC.  
CONTINENTAL AIRLINES, INC.  
ELAINE CLARK  
JESSICA ROSSMAN  
JEFF WITTIG

Plaintiffs

v.

JEREMY COOPERSTOCK

Defendant

BL0052

**AMENDED INTRODUCTORY MOTION  
FOR THE ISSUANCE  
OF A PERMANENT INJUNCTION  
(Article 751 and ff., C.C.P.)**

COPY FOR DEFENDANT:

66 ✓  
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c. Thifault